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PERMANENT MISSION OF TURKEY  
TO THE UNITED NATIONS  
GENEVA

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The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the joint urgent appeal from the special mandate holders, received on 15 March 2013 (ref: TUR 1/2013), has the honour to transmit herewith the information obtained from the relevant Turkish authorities, as regards the detention and conviction of the members of İnsan Hakları Derneği (Human Rights Association, İHD) and Çağdaş Hukukçular Derneği (Progressive Lawyers Association, ÇHD).

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 24 September 2013

Encl: As stated



Office of the High Commissioner for Human Rights  
Palais Wilson  
Geneva

*1. As to the first question:*

M. Tugay Bek and Sevil Araci Bek, whose names appear in the letter, were tried for the offence of membership of the terrorist organization PKK/KCK and they were sentenced to three years and a month imprisonment. It is stated in the reasoned judgment of the court that the persons participated in the activities ending up a terrorist organization propaganda and they acted with a group that chanted slogans in favor of the terrorist organization. The conviction has nothing to do with the election studies and the professional activities of these lawyers.

It is seen that the lawyers Filiz Kalayci, Hasan Anlar, Murat Vargun and Halil Ibrahim Vargun, members of the Human Rights Association, were tried for the offence of membership of an armed terrorist organization (PKK/KCK) and sentenced as stated in the letter. It is indicated in the reasoned judgment of the court that the accused persons participated in many activities supported by the PKK/KCK and during the search made in their houses, many documents concerning these terrorist organizations were found.

The other lawyers whose names appeared in the letter, Selçuk Kozağaçlı, Taylan Tanay, Güçlü Sevimli, Naciye Demir, Nazan Betül Vangöllü Kozağaçlı, Günay Dağ, Ebru Timtik, Barkın Timtik and Şükriye Erden were detained within the operation of the terrorist organization DHKP/C. It should firstly be noted that these persons were not detained due to their professional activities; they were detained for the offence of membership of the terrorist organization DHKP/C. The searches carried out within the investigations were conducted upon court's decision and the actions regarding the detention and continuation of detention were taken upon the prosecutor's order. Within the investigation concerning the lawyers, a search was conducted in a bureau called "People's Law Bureau" in the presence of two prosecutors, representative of the bar association, the accused persons and the defense party with reference to the court's decision. The security forces arrived in the place, where the investigation was conducted, in order to take security measures for the search. However, they did not start the search before the prosecutors and the representative of the bar association came.

As a result of the proceedings by the independent courts regard being had to international norms concerning the right to a fair trial, conviction judgment was rendered in respect of some of the lawyers stated above.

*2. As to the second question:*

The investigation into the allegations of the lawyers, who were detained within the operation regarding the terrorist organization DHKP/C, that they were ill-treated has been conducted by the İstanbul Chief Public Prosecutor's Office

*3. As to the third question:*

The lawyer, who were taken into custody and who were detained, were not detained due to their professional activities; they were detained upon the court's decision on the basis of the evidences showing the strong suspicion of membership of the terrorist organization. No international rule of law indicates that an investigation could not be launched against a suspect just because that he/she is a lawyer.

*4. As to the fourth question:*

The investigation in respect of the detained lawyers was being carried out by the İstanbul Chief Public Prosecutor's Office. It could not have been concluded on the ground that the process of collecting evidence was on-going and statements of some of the suspects were not taken. However the bill of indictment was accepted by the 23th Chamber of İstanbul Assize Court on 18 July 2013. Accordingly the restriction of right to access to all case file was lifted.

*5. As to the fifth question:*

With the 3<sup>rd</sup> Judicial Package that entered into force on 3 July 2012, the arrangement concerning the restriction of right to access to all case file upon a court decision, which was set out in Article 10 of the Anti-Terror Law, was abolished. Accordingly, as per Article 158 of the Code of Criminal Procedure, it is possible for the suspect to access all the documents of the actions that he/she takes part in person, where a decision of restriction is rendered. In its recent judgment on *Haydar Ceviz v. Turkey*, the ECtHR held that the decision of restriction in the file did not constitute a breach of Article 5 § 4 of the Convention (*Ceviz v. Turkey*, no. 8140/08, 17 July 2012).

Furthermore, the arrangement concerning the representation of the suspect by one lawyer during the investigations in accordance with the Anti-Terror Law was abolished.

*6. As to the sixth question:*

The Turkish Government is aware of the fact that freedom of expression and freedom of assembly are the fundamental rights of a person. Many reforms have been made in our country with a view to enhancing these rights. If the actions of the public officers refer to the conviction judgments of the courts, the fact that the executive organ does not comment on the reasoned judgment of the independent courts is one of the main elements of the principle of separation of powers. The allegations on ill-treatment to the detained lawyers are being thoroughly investigated. It is impossible for our State, which respects human rights, to accept the situations that could cause violations of Article 3 of the ECHR.

*7. As to the seventh question:*

Human rights lawyers and all the lawyers in our country are not hindered from performing their professional activities. There exist many associations carrying out activities on protection of human rights. With the exclusion of some exceptions, the Ministry of Justice has to give assent for a criminal investigation to be launched against the lawyers. All the persons alleging that his/her rights were violated while performing human rights activities have the right to lodge an application with the prosecutor's offices and courts. With the right to individual application that entered into force on 23 September 2012, anyone who thinks that his/her constitutional rights set forth in Constitution have been infringed will have a right to apply to the Constitutional Court.